IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.129 OF 2006
IN
CRIMINAL APPEAL NO. OF 2006

The State of Maharashtra ...Applicant.
V/s.
Dattatraya Digambar Salunkhe & Anr. ...Respondents.

Ms.S.V.Gajare, APP for the Applicant/State.
Mr.B.R.Patil, adv. for the Respondent No.1.

CORAM: J.H.BHATIA, J.
DATE : 2nd April, 2007.

P.C.:

1. Heard Ms.Gajare the learned APP and Mr.Patil the learned counsel for the respondent no.1. This is an application seeking leave to prefer appeal against the acquittal of the respondent nos.1 and 2 for the offences punishable under Sections 7,13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

2. To state in brief the respondent no.1 was posted as a maintenance surveyor in the office of Taluka Inspector Land Records (For Short 'T.I.L.R.) at Akkalkot. Father of the complainant Mahadev had expired about 2 years prior to this incident and he had applied to add names of himself, his mother and brother as legal heirs of his father in respect of house bearing C.T.S.No.278 of Village: Nagansur. For a long time no action was taken and therefore, the complainant

approached the accused respondent no.1 on 17-5-2003. At that time the respondent no.1 made a demand of Rs.2,000/- to do the work. After negotiations amount was reduced to Rs.500/-. As the complainant Mahadev was not willing to make the payment, he approached the Anti Corruption Bureau and trap was arranged on 20-5-2003. The complainant Mahadev and one panch witness approached the accused no.1 to his office. At that time the accused no.2 was also present. After some discussion all of them went to nearby hotel for taking a cup of tea. There accused no.1 allegedly made demand of the amount and as per his direction amount of Rs.500/- was actually accepted by the accused no.2. The complainant gave signal and the raiding party rushed to the spot. The police inspector Kurundwadkar was informed about what had transpired and during the search, tainted currency notes were found with accused no.2 and anthracene powder was also found on his hand. Both the accused were chargesheeted and to put to trial. After trial they came to be acquitted by the Special Judge, Solapur.

3. The learned Special Judge noted that prior to the alleged demand and the payment, one Kalasgonda had made an application to T.I.L.R. to record his name as the owner of the property bearing C.T.S.No.298. The

complainant Mahadev had also filed a civil suit for restraining T.I.L.R. from recording the name of the said Kalasgonda as owner of the property. Not only this, he could not get any relief and on 14-4-2003 name of Kalasgonda was recorded as the owner of the said property. On 3-5-2003 T.I.L.R. also informed superintendent of land records about mutation entry. The learned trial Court found that the competent authority to make the mutation entry was T.I.L.R. and not the accused no.1 and as T.I.L.R. had already mutated the property in the name of Kalasgonda long before 17-5-2003, the question of demanding Rs.500/- by the accused no.1 and payment of that amount to him or on his direction to the accused no.2 on 20-5-2003 could not arise. The trial Court also noted that when the complainant and the panch witness went to the office of the accused no.1, none except the accused no.1 and 2 were present and if accused no.1 wanted the bribe, he could have directed them to make the payment to the accused no.2 at that time only instead of taking all these persons to a public place like hotel. The trial Court also noted that the Deputy Director of land records, which was sanctioning authority admitted that the accused nos.1 was not in a position to take the entry in favour of the complainant. The trial Court found that the sanctioning authority had failed to apply

its mind before according sanction for prosecution. With these reasons, the accused persons came to be acquitted.

4. After giving due thought to the facts and circumstances and the reasons noted by the trial Court while passing the impugned order of acquittal, I find that the order does not appear to be perverse, illegal or per se wrong. Merely because the appellate Court may take a different view, it is not sufficient to upturn the order of acquittal. In these circumstances, I find that it is not fit case to grant leave to prefer appeal.

5. Leave refused. Application stands rejected.

(J.H.Bhatia,J.)